

1 Q. Is that what you're telling us?

2 A. Yes.

3 Q. And when you went to pick up the Tesla
4 coil, was it in a box? In other words, when you went
5 to pick it up -- was it in the laboratory, was that
6 where they kept them?

7 A. That, again, the laboratory or someone
8 else's room.

9 Q. So when you would pick it up from the
10 laboratory for example, was the Tesla coil in its
11 box?

12 A. No.

13 Q. How was the Tesla coil stored in the
14 laboratory when not in use?

15 A. Power cord wrapped around it.

16 Q. Where was the Tesla coil placed? In a
17 drawer? On a shelf?

18 A. There's not a certain home for it.
19 There's not a thing that says "Tesla coil" right
20 there.

21 Q. Is there a particular location in the
22 laboratory where it's kept?

23 A. No. No, there isn't.

24 (Interruption.)

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1 Q. When you decided you needed to use a
2 Tesla coil in a class period, would you go down the
3 day before and get it to bring it back to your class
4 for the following day, for example?

5 A. Or the day of.

6 Q. And either when Mr. George first trained
7 you -- let me ask that first, when Mr. George first
8 trained you --

9 (Interruption.)

10 Q. So when Mr. George was training you about
11 the use of the Tesla coil, I think you said he told
12 you how to turn it on and operate it, correct?

13 A. Yeah.

14 Q. Okay.

15 A. From what I remember, yes.

16 Q. And you don't recall whether he told you
17 you shouldn't do this or you shouldn't do that when
18 using the Tesla coil.

19 A. It's been 21 years, so . . .

20 Q. Okay. And you testified that he had
21 demonstrated to you that you used this to charge
22 those tubes of gas, correct?

23 A. Yes.

24 Q. Did he tell you there were any other ways

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1 you should use or could use the Tesla coil?

2 A. I'm sure -- I'm not sure, sir. It's been
3 21 years ago.

4 Q. Okay. And in the course of that 21 years
5 did you ever read an instruction manual for use of
6 the Tesla coil?

7 A. No.

8 Q. In that 21-year period did you ever see
9 the instruction manual for the Tesla coil?

10 A. No.

11 Q. In that 21 years did you ever make any
12 effort to try to find an instruction manual for the
13 Tesla coil?

14 A. No.

15 Q. You've come to learn today anyway that
16 the Tesla coil creates, I think it's between 22,000
17 and 45,000 volts; is that correct?

18 A. If that's what has been said. If that's
19 what's been stated. I'm not -- is that what's out
20 there?

21 Q. Okay. Through your use of a Tesla coil
22 over 21 years you understood that when you used the
23 coil, it would create an electric arc from the tip to
24 whatever item it was touching, correct?

1 A. Yeah.

2 Q. And that was the point of the device,
3 correct?

4 A. Yes.

5 Q. To apply an electrical charge to
6 something, correct?

7 A. Yes.

8 Q. And you could actually see this
9 electrical charge when you were doing these
10 experiments in class when you were applying them to
11 the test tubes of gas, you could actually see the
12 arc, the electric arc jumping from the Tesla coil to
13 the tube, correct?

14 A. Yes, if -- yes.

15 Q. And you understood through your 21 years
16 of use of the Tesla coil that if you applied the
17 Tesla coil to the human skin or the body anywhere, it
18 was going to shock you, correct?

19 A. Yes.

20 Q. Okay. And you, in fact, had used or
21 applied the Tesla coil to yourself over the years on
22 various occasions, correct?

23 A. Yes.

24 Q. And on those occasions -- would you do

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1 that every time when you had a class and you were
2 demonstrating something with the Tesla coil?

3 A. Every time? Twenty-one years? I would
4 say no to that.

5 Q. Okay. Most of the times when you were
6 demonstrating the use of the Tesla coil to kids in
7 the class you would apply it to yourself?

8 A. Not necessarily.

9 Q. How frequently do you think you applied
10 it to yourself over that 21-year period?

11 A. I don't -- I can't give you a number on
12 that, sir.

13 Q. Okay. More than a dozen times?

14 A. Through 21 years, more than a dozen
15 times?

16 Q. Yes.

17 A. Yeah.

18 Q. Okay. And when you applied it to
19 yourself, it hurt, right?

20 A. It depends on what you mean by "hurt."
21 If you want a feeling from it, would be like rubbing
22 on carpet, electric -- static electricity.

23 Q. A static shock is what you're comparing
24 it to?

1 A. Yes.

2 Q. And a static shock lasts only
3 instantaneously, correct? For example, if you rub on
4 carpet and you touch a metal object in the winter,
5 that's just an instantaneous shock.

6 A. Yes.

7 Q. If the Tesla coil is applied to you, that
8 shock lasts a longer time, right?

9 A. If left on there, yes.

10 Q. So for however long you leave it in close
11 proximity to the skin that's going to be the duration
12 of the shock that the person feels.

13 A. Unless the person pulls his arm away,
14 yes.

15 Q. Right. Now, you understand that
16 electrical shocks can cause burns, right?

17 A. Sure.

18 Q. Okay. And based on your use of the Tesla
19 coil on yourself over the years you understood that
20 when applied to you, it would leave a slight little
21 red mark, wouldn't it, even on your skin?

22 A. Rephrase that one, sir.

23 Q. Okay. Over your 21 years of use of the
24 Tesla coil and on those occasions when you used it on

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1 yourself, you understood that by using it on yourself
2 it was going to leave a slight red mark on your skin.

3 A. Not every time.

4 Q. Well, sometimes it did leave a red mark,
5 correct?

6 A. If I did it for multiple classes. If I
7 did it for multiple classes. You're saying slight
8 red? Yeah.

9 Q. And it would leave a slight redness or an
10 irritation on your skin if you just applied it to
11 your skin for, let's say five seconds.

12 A. I'm not going to commit on that one, sir.

13 Q. Well, based on your use of that device
14 over the years it was your experience, wasn't it,
15 that when you applied that device to your own arm for
16 a few seconds, it would end up leaving just a slight
17 red mark?

18 A. After multiple uses -- of classes.

19 Q. So it's your testimony that you would
20 apply that device to the same point on your skin
21 during those classes.

22 A. You don't -- you don't see a mark right
23 away, sir. You don't see a -- when you use it, you
24 don't see a mark right away.

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1 Q. How long after you use it would you see a
2 mark?

3 A. You're saying on me?

4 Q. Yes.

5 A. After I've done it throughout the whole
6 day?

7 Q. Okay. How many science periods do you
8 teach a day?

9 A. Five.

10 Q. Five?

11 A. Uh-huh.

12 Q. On those days when you did use a Tesla
13 coil in class, would you use it in all five periods?

14 A. Not -- it all depends on where I'm at.

15 Q. Some classes may be ahead or behind other
16 classes.

17 A. Exactly. You've got the idea, yes. So
18 it depends year after year.

19 Q. So typically you wouldn't actually use it
20 in all five classes on any given day in any given
21 year; is that fair?

22 A. Sometimes they line up right. Yeah,
23 sometimes all five are lined up or in the same spot,
24 sometimes they're not.

1 Q. And sometimes it may be only two classes
2 or three classes or four classes --

3 A. Yes.

4 Q. -- or one class; is that right?

5 A. Yes, that's correct.

6 Q. And so on those days when you used the
7 Tesla coil, did you always use it on yourself in each
8 one of those classes?

9 A. It was for an experiment.

10 Q. I understand.

11 A. You're thinking I pull the thing out and
12 I just use it, say "Hey, kids, look at this." No.
13 It was for demonstration.

14 Q. No; I understand that.

15 A. So you're narrowing it. I see you're
16 narrowing in on something here, but it's for a
17 demonstration.

18 Q. I'm talking about just this specific --
19 we'll talk about all these other things, we'll get to
20 that in a minute, but right now I'm just talking
21 specifically about when you applied it to yourself in
22 the classroom, and my question now is let's take --
23 you have five periods, science periods, during the
24 day, right?

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1 A. Uh-huh.

2 Q. Let's assume all five periods are
3 actually going to get the Tesla coil experiment in
4 that class that day, okay?

5 A. Okay.

6 Q. On those days when that happened, was it
7 typical for you to do a demonstration using the Tesla
8 coil on yourself in all five of those periods?

9 A. You're saying locationwise?

10 Q. Anywhere on your arm. I don't care where
11 it was.

12 A. Being right-handed, yes. So applied to
13 my left hand. I'm not sure if I'm answering you
14 there.

15 Q. No. My question is in those five periods
16 you are doing an experiment with the Tesla coil and
17 in all five do you show the kids the use of the Tesla
18 coil on your arm, or sometimes would it be only three
19 out of five where you would show the kids the use of
20 the Tesla coil on your arm?

21 A. Yeah, sometimes could be only three.

22 Q. So you wouldn't always apply the Tesla
23 coil to your arm in every class where you were doing
24 that Tesla coil experiment.

1 A. I would agree with you on that, yes.

2 Yes.

3 Q. And I think what you're telling me is
4 that, you know, at the end of the day, whether you
5 used it on your arm once or five, it wasn't until the
6 end of the day when you noticed some kind of red mark
7 on your arm.

8 A. If it was applied five times, at the end
9 of the day, yes.

10 Q. So your testimony is the only time you
11 ever saw a mark on your arm is when you applied it
12 five times during the day?

13 A. No. So you want me to be exact on that.

14 Q. Well, did you notice a mark if you only
15 applied it to your arm one time during the day?

16 A. No.

17 Q. How about if you applied it two times to
18 your arm during the day?

19 A. I know you're going to travel down this
20 way. I can't give you a specific number on my arm
21 when it's going to be, sir.

22 Q. Okay. All right. But the bottom line
23 here is that when you used the Tesla coil on your
24 arm, whatever number of times it was, at the end of

1 the day sometimes you would notice a mark on your
2 arm, correct?

3 A. Yes.

4 Q. Okay. Now, we talked a little bit, one
5 of the purposes you used the Tesla coil for during
6 the class was to charge these tubes of gas, correct?

7 A. That is correct, sir.

8 Q. And that was an experiment that would
9 show the kids what -- they could identify the type of
10 gas in the tube based on the color it glowed; is that
11 correct?

12 A. That's right. Yes.

13 Q. And then what other ways did you use the
14 Tesla coil in class for teaching purposes for kids?

15 A. I'm just trying to think of the
16 experiments Jeff George showed. Another
17 demonstration would be, I don't know if I did this in
18 2007, I'm trying to recall if I did this experiment
19 or not because it changes, sir, but you can charge up
20 a gas, some type of a container with two nails in it,
21 charge the gas, and the cork comes off the top, that
22 type of thing, so that would be another one.

23 Q. So the gas in that instance would be in a
24 test tube.

1 A. Would be a volatile type of gas.

2 Q. Right. And a cork is on the top. You
3 charge the gas, the gas expands, and the cork shoots
4 up.

5 A. Exactly. Yes, that's it.

6 Q. Okay. And you also did experiments and,
7 in fact, I think you did it in James Doe's class on
8 December 6th, 2007, where kids were in a chain and,
9 I don't know whether you applied the Tesla coil to
10 yourself or to a student, and it worked its way
11 around that chain of kids holding hands. Do you
12 recall that?

13 A. Yes.

14 Q. What was the purpose of that experiment?

15 A. Can I back up a little bit?

16 Q. Sure.

17 A. Okay. As soon as I unwrapped the Tesla
18 coil and the kids saw it, they immediately recognized
19 it, immediately. Most, okay? The reason, they've
20 seen it before, sixth grade, fifth grade, third grade
21 uses it, okay. And out of their mouth immediately,
22 "Can I touch it?" This is before I -- this is as
23 soon as they visually see the thing, okay?

24 I do a demonstration with the vacuum

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1 tubes and that daisy chain, I believe that's the term
2 you want to call it.

3 Q. When the students ask you "Can I touch
4 it?" what do you tell them?

5 A. I don't know if I have a thing I say.

6 After 21 years I'm not quite sure what I say to that,
7 sir.

8 Q. Well, you just testified that in 21 years
9 every time you bring it out the kids are saying "Can
10 I touch it?"

11 A. "Can I touch it?" yes.

12 Q. So what do you say in response,
13 typically?

14 A. "We're doing a demonstration. Get out
15 some paper. Take some notes."

16 Q. Okay. So you don't respond to them in
17 any way about the question "Can I touch it?"

18 A. I might say, and I'm not sure, but in
19 this situation I might say "Maybe at the end of the
20 period."

21 Q. Back to my question before. What's the
22 purpose of the daisy chain experiment that you do
23 with the Tesla coil?

24 A. Dealing with atoms, electrons, flow of

1 electrons. Proton, neutron, electron, flow of
2 electrons, and resistance.

3 Q. Tell me how you teach that through the
4 use of that daisy chain Tesla coil experiment.

5 A. With that one -- excuse me, sir -- with
6 that one I hold the tip, I think it's -- the words I
7 use, "ET," okay? Kids are there. I mean, they -- I
8 don't have to ask for volunteers; they're there.
9 Most of the time the back row has to stand up in
10 order to see because the demonstration is on the
11 floor, sir. So they're standing up and out of their
12 seats. But they're excited.

13 And we do a, I hold the Tesla coil and do
14 a "ET," they get close enough, electrons flow across
15 the air. It's not a resistor anymore, it now becomes
16 a conductor, it jumps across to the finger.

17 Q. When you say you hold the Tesla coil, you
18 mean you're holding it to your finger?

19 A. No, I'm holding -- I would be holding the
20 tip there, sir.

21 Q. You're holding the actual Tesla coil, or
22 you're holding onto the tip of the Tesla coil?

23 A. Tip of the Tesla coil.

24 Q. Okay. Who is holding onto the Tesla

1 coil?

2 A. You can do both. I mean, you could do
3 both.

4 Q. Okay. Which hand are you holding onto
5 the Tesla coil with?

6 A. I really expect that varies some. I
7 would assume -- I'm left-handed.

8 Q. Let's assume you're holding onto the
9 Tesla coil with your left hand and you say with your
10 right hand you're touching the tip of the Tesla coil.

11 A. No. No. No. No. I'm holding it with
12 my left hand, holding the Tesla coil and the tip at
13 the same time. And then my other finger would be
14 like this. So the Tesla coil would be here, I'm
15 using my left hand, and I hold my finger like this.

16 Q. So if you're using your left hand, your
17 left hand is holding onto the Tesla coil and then
18 your right hand does the "ET" drill with the
19 students.

20 A. Yes.

21 Q. And is it one student at a time or is it
22 the daisy chain?

23 A. It just gets added on down the line.

24 Q. So you add one student, then two

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1 students.

2 A. As the resistance becomes less and less,
3 the electron flow's going to be less and less.

4 Q. So the student at the end of the chain
5 doesn't really feel anything.

6 A. Will become -- yes. Yes.

7 Q. It becomes very weak.

8 A. Yes.

9 Q. Do students at the top of the chain, the
10 one immediately adjacent to you or the next one, ever
11 pull out and stop and not want to do it anymore?

12 A. Yeah. Yeah. I mean, a lot of things can
13 happen. I mean, over the years.

14 Q. And sometimes --

15 A. So the chain could get broken.

16 Q. Right.

17 A. So it's like okay, this is why.

18 Q. Right. And those kids that are right
19 next to you, one or two or three down the line, they
20 jump out sometimes because it hurts, right?

21 A. No. You're bringing that "hurt" word in.
22 Well, you're bringing that word in. Surprised. I
23 would think a better word would be were surprised by
24 it, yes.

1 Q. Okay. It shocks them, obviously, since
2 it's an electrical charge.

3 A. It would be like I said, like a static
4 electrical shock.

5 Q. And they jump back because they've gotten
6 shocked; is that fair?

7 A. Yeah. Yes.

8 Q. Let's talk about December 6th. Well,
9 let me back up a second. The Tesla coil device that
10 you used in your classroom, as I understand it, you
11 have now destroyed; is that correct?

12 A. That would be correct.

13 Q. How did you destroy it?

14 A. It got smashed.

15 Q. Did you throw it against something?

16 A. No. No, I didn't throw it against
17 something.

18 Q. How did it get destroyed?

19 A. If I recall, a brick or -- I'm not sure.
20 I don't remember.

21 Q. So you hit it with a brick or a hammer or
22 something hard like that.

23 A. Yes. I was asked to destroy it, so I
24 destroyed it.

1 Q. Who asked you to destroy it?

2 A. Mr. White.

3 Q. And do you still have that Tesla coil?

4 A. No.

5 Q. Who did you give it to?

6 A. I'm not sure where it's at, sir.

7 Q. After you destroyed it, what did you do
8 with it?

9 A. In a landfill someplace.

10 Q. You actually recall throwing it away
11 after you smashed it up?

12 A. Yes.

13 Q. And did you throw it away -- where did
14 you smash it, at home or at school?

15 A. I don't remember, sir, exactly where I
16 destroyed it.

17 Q. You don't remember whether it was at home
18 or at school or somewhere else.

19 A. What I remember is he said destroy it and
20 I -- it got destroyed.

21 Q. Okay. Do you have a brick or a hammer in
22 your classroom at school?

23 A. I've got a big rock. I got a lot of
24 stuff in there, sir.

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1 Q. Okay. So as you sit here today, though,
2 you don't recall whether you destroyed it at school
3 or whether you destroyed it somewhere else; is that
4 correct?

5 A. I don't know, sir.

6 Q. Okay. But you do remember throwing it
7 away.

8 A. Yes.

9 Q. And do you remember, it was in a bag, in
10 a box when you threw it away? Was it just in parts
11 and you tossed it out?

12 A. I don't remember, sir.

13 Q. Over the 21 years I think you mentioned
14 that there may have been one, may have been two, may
15 have been three different Tesla coils in the school;
16 is that right?

17 A. You said over the 21 years?

18 Q. During that 21-year period --

19 A. Yes.

20 Q. -- you remember multiple Tesla coils.

21 A. Yes.

22 Q. Did you always happen to use the same
23 one, do you know?

24 A. I don't remember, sir. I don't remember.

1 It could have been. It might have been. They got
2 moved around from lab to lab.

3 Q. Okay. And you recall that the Tesla coil
4 actually has a warning label on the side of it. Do
5 you remember that warning label?

6 A. No.

7 Q. It's your testimony that you never saw a
8 warning label on the side of the Tesla coil.

9 A. That would be my testimony, yes.

10 Q. Did you ever read a warning label about
11 use of the Tesla coil?

12 A. No.

13 Q. You never saw a warning label about use
14 of the Tesla coil.

15 A. That's correct.

16 Q. Now, let's go to that day, December
17 6th, 2007, in your eighth period science class
18 where James Doe was. You did the test tube
19 experiment, correct?

20 A. Uh-huh.

21 Q. You have to say "yes."

22 A. Yes. I'm sorry. Yes.

23 Q. And then did you subsequently do the
24 daisy chain experiment?

1 A. Oh, in that -- we're talking specifically
2 now on that day?

3 Q. Yes.

4 A. Yes.

5 Q. The last experiment you did with the
6 Tesla coil in class that day was asked for volunteers
7 of kids who wanted to feel the Tesla coil applied to
8 them, correct?

9 A. I believe it was reversed.

10 Q. What do you mean?

11 A. I believe the students was first and the
12 daisy chain was last.

13 Q. You don't recall one way or the other,
14 though?

15 A. I'm pretty sure that the order I just
16 said was correct.

17 Q. Did you have a class plan where you would
18 have written down the order that you were going to do
19 these things in?

20 A. No.

21 Q. Okay. So you're doing this experiment
22 with kids volunteering to have the Tesla coil applied
23 to them, correct?

24 A. Uh-huh. Yes.

1 Q. And I believe it was four or five kids
2 who volunteered to have it done?

3 A. I don't want to comment on the exact
4 number on that. I want to say I don't remember that,
5 sir.

6 Q. Do you remember the particular kids
7 during that class on December 6th, '07, that
8 volunteered?

9 A. Obviously James. Student No. 81. I do
10 believe Student No. 5 was in there I believe. That's
11 the three I can think of.

12 Q. What about Student No. 4?

13 A. Different class.

14 Q. How about Student No. 6?

15 A. That would be a different class. I don't
16 think it was applied to him.

17 Q. How about Student No. 51?

18 A. Different class from eighth. I'm not
19 sure. I don't think -- I'm not sure.

20 Q. Okay. Well, whatever the number of
21 students were, three, four, five, whatever number
22 there were, those kids got in line; is that correct?

23 A. They were -- when I did that
24 demonstration, there was -- eighth graders, there's a

1 lot of excitement in class. I don't think a line
2 formed and said tu-tu-tu, like that. Kids in the
3 back row was up. Probably an inner circle, probably
4 some of those students were up also.

5 Q. How did you ask for volunteers for that
6 experiment?

7 A. They volunteered.

8 Q. I understand that. But did you say "I'm
9 doing this experiment, who wants to" --

10 A. They asked.

11 Q. They asked to have it done?

12 A. Yeah.

13 Q. Okay. Was that based on you having
14 done -- you had already --

15 A. That's correct.

16 Q. -- done it to yourself, correct?

17 A. That's correct.

18 Q. And so they volunteered to have it done
19 to them; is that correct?

20 A. Yes.

21 Q. And then whether it was a line or a
22 congregation or whatever it is, a number of students
23 were there in the front to have it applied to them in
24 front of the class, correct?

1 A. Yes. Yes.

2 Q. And there's been testimony that this was
3 done on the flat part of an overhead projector?

4 A. That's incorrect.

5 Q. You don't recall it that way.

6 A. That was incorrect. It was never done on
7 top of the overhead.

8 Q. How do you recall it being done during
9 that day?

10 MR. MANSFIELD: I'm going to enter an
11 objection, you can't --

12 MR. HAMILTON: I'll object. I'll object.
13 He's going to invoke his Fifth Amendment right as it
14 relates to this, and he can read the prepared
15 statement or he can read it as best he can remember
16 it, but we're certainly going to object to that
17 particular question.

18 MR. MANSFIELD: Fifth Amendment grounds
19 as to what?

20 Could you read the question back, please.

21 (Record read.)

22 Q. I'm simply asking there about how the --
23 about how it was actually done with the students. I
24 mean, you just testified that it wasn't done on top

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1 of the overhead projector. Tell me how you conducted
2 that experiment.

3 MR. HAMILTON: Again, I'm going to
4 object. He's going to invoke his Fifth Amendment
5 right at this time.

6 Q. Are you invoking your Fifth Amendment
7 right?

8 A. I'm just going to read this here. On the
9 advice of counsel, at this time I invoke my Fifth
10 Amendment right to be free from self-incrimination as
11 the existing statute of limitations in this matter
12 has not expired.

13 Q. You did this experiment during class, you
14 just testified to that, correct?

15 A. Yes.

16 Q. And you testified that you used it on
17 yourself first, correct?

18 A. Yes.

19 Q. And then you also applied the Tesla coil
20 to various students as part of this experiment during
21 class, correct?

22 A. Yes.

23 Q. And one of the students that had
24 volunteered was James Doe, I think you told us that

1 before, correct?

2 A. Yes.

3 Q. And so you applied the Tesla coil as part
4 of this experiment to James Doe, correct?

5 MR. HAMILTON: I object.

6 A. On advice of counsel, at this time I
7 invoke my Fifth Amendment right to be free from
8 self-incrimination as the existing statute of
9 limitation in this matter has not expired.

10 Q. Do you feel that there may be criminal
11 actions brought against you as a result of what
12 happened in the classroom that day?

13 MR. HAMILTON: I object. He's going to
14 invoke his Fifth Amendment right.

15 A. On advice of counsel at this time I
16 invoke my Fifth Amendment right to be free from
17 self-incrimination as the existing statute of
18 limitation in this matter has not expired.

19 Q. You testified in the termination
20 proceeding, correct?

21 A. That would be correct, sir.

22 Q. And you recall that you testified there
23 that you actually used the Tesla coil on James Doe,
24 correct? I'm asking you whether --

1 MR. HAMILTON: I object.

2 A. I need to look at the testimony. If you
3 got --

4 MR. MANSFIELD: Do you have his
5 testimony?

6 Q. Mr. Freshwater, let me hand you what is a
7 transcript from your testimony at the termination
8 proceeding, and on page 399 the question was asked of
9 you: "Question: Okay, let's start with James."

10 A. What number? What number is that, sir?

11 Q. This is page 398, line 19.

12 A. Nineteen, okay.

13 Q. You can follow this with me.

14 A. Where would you like me to read?

15 Q. Let me just --

16 A. Okay.

17 Q. I'll read things and ask you if I'm
18 reading correctly or not. So page 398, Line 17 the
19 question says: "You tell us how you did it."

20 And you answered: "When? With James?"

21 Did I read that correctly?

22 A. I'm sorry. I'm having a hard time seeing
23 that. Which line did you say?

24 Q. Seventeen and 18. Did I read those two

1 correctly.

2 A. You tell us how you -- how did you you
3 it. You tell us how --

4 Q. How did you --

5 A. -- you you it.

6 Q. I assume that must mean "Tell us how you
7 did it." Would that be fair?

8 A. I can't -- Millstone -- I can't determine
9 what Millstone said there, sir.

10 Q. Line 19 it says: "Question: Okay.
11 Let's start with James."

12 And your answer was: "I do not remember
13 to go into that detail."

14 Did I read those two lines correctly?

15 A. How tell us did you it.

16 Q. No. I didn't read that one. This one.

17 A. "Okay. Let's start with James."

18 "I do not remember to go into that
19 detail."

20 Q. Did I read that correctly? That's my
21 only question.

22 A. Yes, you read that correctly.

23 Q. Okay. The next question: "Okay. If you
24 don't remember, are you sure that James is

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1 inaccurate?"

2 And your answer was: "Is he inaccurate?"

3 Did I read those two lines correctly?

4 A. Yes, you read them correctly.

5 Q. The next line, "Question: In the way he
6 described that you did it to him."

7 "Answer: I don't do it that way so that
8 would be inaccurate."

9 Did I read those correctly?

10 A. You read that correctly, sir.

11 Q. That's akin to what you just testified
12 here to, right, James's recollection of how it was
13 done was a little different than your recollection of
14 how it was done; is that right?

15 A. "Is he inaccurate?" "I don't do it that
16 way so" -- yes.

17 Q. So the next question: "How did you do
18 it?"

19 "Answer: James mentioned one way,
20 students holding hands, I'm holding it."

21 Did I read those two lines correctly?

22 A. You read it correctly, sir.

23 Q. Next line: "Question: I'm talking
24 specifically to James. Did you put -- did you use

1 this device on James Doe's --"

2 "Answer: Yes."

3 "Question: -- arm?"

4 "Answer: Yes."

5 Did I read those four lines correctly?

6 A. Yes, you did, sir.

7 Q. So during your testimony in the
8 termination proceeding you did testify that you used
9 the device on James Doe's arm, correct?

10 A. Yes.

11 Q. Would you describe for me --

12 A. Can you give me those? Where'd you stop
13 at, 399? Where did you stop?

14 Q. It was page 399, line 8.

15 A. Line 8 is where it stopped, okay.

16 Q. Correct.

17 A. Thank you, sir.

18 Q. Now, will you describe for me how it was
19 that you applied the Tesla coil to James Doe? I know
20 you heard what James's testimony was and you've
21 testified that it was somehow different than that.

22 Can you tell me how you used it on his arm?

23 MR. HAMILTON: Objection.

24 A. On advice of counsel, at this time I

1 invoke my Fifth Amendment right to be free from
2 self-incrimination as the existing statute of
3 limitation in this matter has not expired.

4 Q. Do you feel a threat of criminal
5 prosecution based on your answer to that question?

6 MR. HAMILTON: Objection.

7 A. On advice of counsel, at this time I
8 invoke my Fifth Amendment right to be free from
9 self-incrimination as the existing statute of
10 limitation in this matter has not expired.

11 Q. Now, I thought you testified before that
12 James's class in December '07 wasn't the first class
13 where you did this experiment, this particular
14 experiment where you would apply to it kids' arms,
15 correct?

16 A. It was not the first time?

17 Q. Right.

18 A. It was December 6th, not December
19 7th, sir.

20 Q. December 6th was James.

21 A. You said "7th."

22 Q. Oh, I did? I apologize. That was not
23 the first class, science class, over the years in
24 your 21 years where you had done this same experiment

1 with kids, correct?

2 A. Correct.

3 Q. And I think you had testified before that
4 that was one of the experiments you did most years
5 with your science classes, correct?

6 A. Yes, that's correct.

7 Q. Okay. And when you would do these
8 experiments, the students would pull their arm away
9 sometimes, correct?

10 A. Yes.

11 Q. Okay. And again, I think we can safely
12 assume that that's because they were either shocked
13 or it surprised them, in your words.

14 A. Yes.

15 Q. Do you recall ever seeing a red mark or a
16 burn mark on any student over the years?

17 A. No, sir.

18 Q. You don't recall any kid ever coming to
19 you the next day and saying "Look what that did to
20 me."

21 A. No, sir.

22 Q. You don't recall that.

23 When you did this particular experiment
24 to kids over the years, I think you testified before

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1 that actually most of the time the kids would pull
2 away, correct?

3 A. I don't think I said most of the time,
4 sir.

5 Q. Let's go look back at your --

6 A. What number is this, sir?

7 Q. This is page 399 --

8 A. 399.

9 Q. -- of your termination hearing testimony.

10 "Question: Okay. And if you would hold their arm
11 down, they wouldn't be able to pull away."

12 "Answer: I didn't hold his arm down."

13 Did I read those two correctly?

14 A. It sounds like it yes.

15 Q. The next line: "Question: That wasn't
16 my question. If you hold their arm down, they
17 wouldn't be able to pull away, would they? That's my
18 question."

19 "Answer: If I held their arm down, would
20 they be able to pull away? No."

21 Did I read those two correctly?

22 A. Yes, you did.

23 What number was that?

24 Q. I'm --

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1 A. Oh, are you still reading? I'm sorry.

2 Q. Line 11: "Question: Then how did you do
3 it when you used it on James's arm?"

4 "Answer: The student comes up and gives
5 me their arm and I just use the Tesla coil on them,
6 and most of the time they pull away."

7 Did I read that correctly?

8 A. Yes, you did.

9 Q. So you actually did testify before most
10 of the time kids would pull away, correct?

11 A. I was speaking in general terms there.

12 Q. But --

13 A. Again, that's contextual info.

14 Q. Your testimony during the termination
15 proceeding was that most of the time the kids pulled
16 their arm away, correct?

17 A. Most of the time is a relative word, sir.

18 Q. I'm just asking about your testimony.

19 Your testimony then was most of the time the kids
20 pulled their arm away; is that correct or not?

21 A. Yes, that's what I said.

22 I apologize. What was the number on that
23 again, from where to where?

24 Q. Page 399, line 11 through line 14.

1 A. Thank you.

2 Q. You're aware of the fact, aren't you,
3 that if the Tesla coil is applied to someone's arm
4 long enough, it can cause subcutaneous burns,
5 correct?

6 A. I'm aware -- I'm aware of it now because
7 there was some testimony on that.

8 Q. And you were aware, I think we've already
9 sort of covered this, if we have, I apologize, but
10 you're aware that, you know, that using the Tesla
11 coil on a student's arm is going -- can leave a
12 slight red mark, correct?

13 A. No.

14 Q. You don't agree with that?

15 A. Yeah.

16 Q. Let's go back to look at your previous
17 testimony. Page 401, line 4. "Question: When
18 you're dealing with individual students, I'm not
19 talking about where you have them holding hands like
20 here, but when you're dealing with an individual
21 student and you're marking their arm or you're using
22 it on their arm, does it ever leave a mark?"

23 "Answer: Slight red, yeah."

24 Did I read those correctly?

1 A. Yes, you did.

2 Q. So in your previous testimony you
3 confirmed that this device would leave red marks on
4 kids' arms.

5 A. On myself. On me.

6 Q. Well, the question was asking about
7 students, was it not?

8 A. Can you read that again, sir? I was
9 looking at it as myself.

10 Q. "Question: But when you're dealing with
11 an individual student and you're marking their arm or
12 you using it on their arm, does it ever leave a
13 mark?"

14 "Answer: Slight red, yeah."

15 Did I read that correctly?

16 A. Yes, you read it correctly.

17 Q. And so your testimony then is -- your
18 testimony then was that yes, it would leave a red
19 mark on a kid's arm when it was applied to them. Is
20 that true?

21 A. Like I say, I misspoke there. I'm
22 talking about myself.

23 Q. Okay. You believe it would leave a red
24 mark on your arm, right? That's what you just said.

1 A. Yes.

2 Q. But you don't think it would leave a red
3 mark on a kid's arm?

4 A. I've never -- I haven't seen red marks on
5 kids' arms, sir.

6 Q. Don't you think if it left a red mark on
7 your arm, it would, likewise, leave a red mark on a
8 kid's arm?

9 A. We need to back up. We talked about with
10 me how many times I use it on myself, sir.

11 Q. So you disagree with that statement that
12 it would leave a red mark on a kid's arm.

13 A. In that one, yes.

14 Can you tell me the numbers on that? It
15 was 401 to where?

16 Q. Page 401, line 4 to line 9.

17 A. Nine. Okay.

18 Q. Did you ever see the mark on James Doe's
19 arm?

20 A. No, I did not see it.

21 Q. Do you recall telling James or any other
22 kid that the device would actually leave a temporary
23 mark on their arm like a temporary tattoo?

24 A. No.

1 Q. You never used those words.

2 A. No.

3 Q. You've seen pictures of the mark on James
4 Doe's arm.

5 A. Yes.

6 Q. And you saw those in previous testimony.

7 A. Yes, I saw them. I'm just trying to
8 think when I saw the first one. Yes.

9 Q. Okay. And it's fair to say, isn't it,
10 that at least as depicted in those pictures, and I
11 understand you dispute that you did that, but at
12 least in those pictures the mark that appears on
13 James Doe's arm is in the shape of a cross, correct?

14 A. No.

15 Q. You don't agree with that.

16 A. I don't agree with that.

17 Q. What do you think that the mark looks
18 like?

19 A. I'm going to -- we keep talking about
20 this mark --

21 Q. I'm simply asking --

22 A. No, let me put -- can I say something,
23 sir?

24 Q. No, you may not. If you have something

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1 to say --

2 MR. HAMILTON: If you're going to let him
3 answer the question, he was trying to answer your
4 question.

5 MR. MANSFIELD: Well, he's not answering
6 my question. My question was a simple one.

7 Would you read my question back, please.

8 (Record read.)

9 A. Like an X.

10 Q. Okay. When you applied the Tesla coil to
11 James Doe's arm, is it your testimony that you made a
12 shape in the form of an X or a shape in the form of a
13 cross?

14 MR. HAMILTON: I'm going to object at
15 this time.

16 A. On advice of counsel at this time I
17 invoke my Fifth Amendment right to be free from
18 self-incrimination as the existing statute of
19 limitation in this matter has not expired.

20 Q. Let me show you something in your
21 testimony from your termination hearing. On page
22 403, line 6. Let's go back to line 1. "Question:
23 The various times this has been described as an X or
24 a cross, quite frankly I don't care which one it is

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1 at the moment, but did you ever describe that you put
2 an X on students?"

3 "Answer: I do not remember ever saying
4 anything about a cross."

5 Did I read those two correctly?

6 A. Yes, you did, sir.

7 Q. The next line: "Question: That wasn't
8 my question. My question is did you ever say that
9 you put an X on him?"

10 "Answer: Yes."

11 Did I read those correctly?

12 A. Yes, you did.

13 Q. The next question: "Is an X a mark?"

14 "Answer: Yes."

15 Did I read those correctly?

16 A. Yes.

17 Q. The next question: "Is it your position
18 here today that you put an X on James and not a
19 cross?"

20 "Answer: Yes."

21 Did I read those correctly?

22 A. Yes.

23 Q. So your testimony then was that you
24 actually put an X on James Doe's arm and not a cross;

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1 is that correct? I'm simply asking --

2 A. Where I'm having difficulty is "mark" and
3 "motion."

4 Q. That wasn't my question, sir.

5 A. I know it's not, sir.

6 Q. Okay. But you need to answer my
7 questions today.

8 MR. MANSFIELD: Could you read the
9 question back again, please.

10 (Record read.)

11 A. I did not put a mark on --

12 Q. That wasn't my question, sir. My
13 question was your testimony at the time when you
14 testified during your termination proceeding was that
15 you put a mark on James Doe's arm and not a cross; is
16 that correct?

17 A. Then I will have to say I misspoke there.
18 I did not put a mark.

19 Q. Now today you're denying putting any kind
20 of mark on James Doe's arm; is that correct?

21 A. That would be correct.

22 Q. Okay. Before using the Tesla coil on any
23 of the kids when you did this experiment where they
24 came up and volunteered, did you ever warn any of the

1 kids about any of the dangers associated with the
2 Tesla coil?

3 A. No, sir.

4 Q. And I assume you didn't ask any of the
5 kids whether they had any health problems before they
6 had come up to volunteer to have the Tesla coil be
7 used on them.

8 A. No, sir.

9 Q. Did you ever ask any of the students
10 whether they had a pacemaker or any --

11 A. No, sir.

12 Q. And you didn't ever ask the students
13 whether they had any kind of heart condition.

14 A. No, sir.

15 Q. Did you ever ask any of the students if
16 they were pregnant before you applied the device to
17 them?

18 A. No, sir.

19 Q. I think you previously testified during
20 your termination hearing that you also, I think your
21 testimony was that it was inadvertent but you
22 inadvertently touched Student No. 7 with the Tesla
23 coil that day on December 6th, 2007.

24 A. Repeat that one again. You kind of

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1 switched gears on me there. Go ahead.

2 Q. On December 6th, 2007, in James's
3 science class you inadvertently applied the Tesla
4 coil to Student No. 7's back; is that right?

5 A. That's not correct.

6 Q. Tell me what happened with Student No. 7
7 and the Tesla coil that day.

8 A. It was an accident. Inadvertent.

9 Whatever word you want to use there, accident or
10 inadvertent.

11 Q. Okay. That's what I said, inadvertent.

12 A. Yeah, but you added another word in
13 there; back.

14 Q. It wasn't on his back?

15 A. I don't know where it was, sir.

16 Q. How did that happen? Did he bump into
17 it? Did you bump into him? Tell me what happened.

18 A. He's located -- his seat's located two
19 steps from where -- two steps from where I'm
20 standing. He is a, how can I -- he's a
21 high-maintenance kid, okay? I'm trying to be nice
22 about that, but he's kind of a high-maintenance kid.
23 He's -- he was standing up. He volunteers for
24 everything, anything, that type of thing.

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1 I went by, he was there in no time and it
2 was applied to him. It shocked me just as much as it
3 shocked -- I shouldn't use the word "shocked." It
4 surprised me as much as it surprised him.

5 Q. What do you mean, he was walking by?
6 Tell me what you --

7 A. Oh, he was coming up to do a demo on the
8 vacuum tubes.

9 Q. Okay. There had been testimony that he
10 had bent over and that somehow he was inadvertently
11 shocked in the lower back when he bent over. That's
12 not your recollection?

13 A. No. The lights are down, okay? Lights
14 being down, there's some light in there so kids can
15 take some notes, inadvertent -- wound up because he
16 was asked to come up and look at -- there was a quiz.
17 We were doing some type of a, I don't know if it was
18 a collective quiz, we were doing that demonstration
19 looking at the gases, determined what the gases are,
20 and through looking at those gases he came up and he
21 was volunteering, you know, to determine what that
22 gas was.

23 Q. Do you recall asking him to pick one of
24 the test tubes up?

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1 A. Yeah, he probably -- he volunteered when
2 he came up there.

3 Q. Do you recall that when he was bending
4 over to pick that test tube up, somehow inadvertently
5 the Tesla coil --

6 A. On the way up there, yes.

7 Q. But I'm actually talking about when he
8 was bending down to pick the test tube up, that's the
9 point in time when somehow inadvertently it happened
10 that he got shocked.

11 A. No. As he was going up, sir.

12 Q. As he was coming up to the front of the
13 class.

14 A. Yes.

15 Q. So before he picked up the coil, or
16 before he picked up the test tube, I'm sorry.

17 A. Yes.

18 Q. Okay. And so he had come up to the front
19 of the class near you, obviously, right?

20 A. Yes.

21 Q. And how did he happen to be inadvertently
22 touched with the Tesla coil?

23 A. Just as he's -- his motion of direction
24 as he's going up.

1 Q. So you were standing still?

2 A. Yes.

3 Q. Okay. You had the Tesla coil in your
4 hand I assume.

5 A. I don't know the whole scenario how it
6 all took place, if I'm moving. There was a lot of
7 movement in the class at the time. People in the
8 back row sitting up, standing up, looking.

9 Q. Do you recall whether he was touched
10 somewhere on his back or somewhere on the front?

11 A. I don't know a location, sir.

12 Q. You don't remember.

13 A. I do not remember.

14 Q. Okay. So if someone testified that he
15 actually got shocked in the lower back, you have no
16 reason to dispute that. Is that correct?

17 A. I don't know locations, sir.

18 Q. That's not my question. If someone
19 testified that Student No. 7 was shocked in the lower
20 back, you have no basis to dispute that; is that
21 correct?

22 A. Unless it was on his back, you know, as
23 he's walking by, I don't know.

24 Q. That's not answering my question.

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1 A. Go ahead.

2 MR. MANSFIELD: Would you repeat the
3 question, please.

4 (Record read.)

5 A. I guess that would be a yes to that.

6 MR. MANSFIELD: Okay. Do you guys want
7 to take a break now?

8 MR. HAMILTON: We're good.

9 MR. MANSFIELD: You all right? Why don't
10 we take a short break. We can take a short break. I
11 think everybody needs to run to the restroom.

12 (Recess taken, 2:55 to 3:06 p.m.)

13 MR. MANSFIELD: Back on the record.

14 Q. Mr. Freshwater, you testified a little
15 while ago that you had smashed the Tesla coil, and I
16 just want the record to be clear that the Tesla coil
17 that you destroyed, that was the Tesla coil that you
18 used in your classroom on December 6th, 2007,
19 correct?

20 MR. HAMILTON: Let me go off the record
21 for a second.

22 (Discussion off the record.)

23 MR. HAMILTON: Go ahead.

24 A. Do I know 100 percent that was the Tesla

1 coil?

2 Q. Let me ask you -- yeah.

3 A. I don't know.

4 Q. You were asked to destroy the Tesla coil,
5 correct? That's what you testified to before.

6 A. Yes.

7 Q. And was that -- did you have to go get
8 the Tesla coil or was it still in your classroom?

9 A. I don't remember where it was, sir.

10 Q. Okay. And so you don't know whether that
11 particular Tesla coil that you destroyed was the
12 Tesla coil that you used in the classroom on December
13 6th, 2007.

14 A. As far as I'm aware that was the one,
15 yes.

16 Q. Was there some identifying mark on that
17 particular Tesla coil that would lead you to believe
18 that?

19 A. That wouldn't have anything written on
20 it.

21 Q. For example, a mark, a scuff mark, you
22 know, somebody dropped it in the past and there was a
23 little chunk out of it.

24 A. Oh, so I would know for sure that's the

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1 one.

2 Q. Right.

3 A. I would assume it was the one because it
4 was the one I had access to.

5 Q. So in the '07-'08 school year you had
6 access to only that one Tesla coil.

7 A. Not necessarily. That was the one I
8 retrieved and brought to the room.

9 Q. Okay. So to the best of your
10 recollection --

11 A. Yes.

12 Q. -- it's the same Tesla coil. The one
13 that was used on December 6th and the one that you
14 destroyed is the same Tesla coil.

15 A. To my understanding, yes.

16 Q. You understand the testimony you're
17 giving here today is under oath, correct?

18 A. Yes. Yes.

19 Q. And you also understood or understand
20 that the testimony you gave at the termination
21 proceeding was under oath.

22 A. Yes. Yes.

23 Q. There is a set curriculum in the Mount
24 Vernon Middle School for science teaching; is that